

## DEPARTMENT OF FINANCE BILL ANALYSIS

**AMENDMENT DATE:** June 29, 2011  
**POSITION:** Neutral, note concerns

**BILL NUMBER:** AB 844  
**AUTHOR:** R. Lara

### **BILL SUMMARY:** Student Government: Community Colleges: Members

This bill would allow any student, including a person without lawful immigration status or a student who is exempt from nonresident tuition pursuant to Chapter 814, Statutes of 2001 (AB 540), to: (1) serve in any capacity in student government at a California community college (CCC) or a California State University (CSU), and (2) receive any grant, scholarship, fee waiver, or reimbursement for expenses incurred connected with that service to the extent consistent with federal law. The bill would request the University of California (UC) to comply with the same provisions. The bill would also permit any student to serve on a local CCC district governing board by removing the requirement that the student be a California resident.

The bill would also provide protection to the UC, the CSU, and the CCCs from any monetary damages, tuition refunds, or other relief if a state court finds the provisions of the bill to be unlawful.

### **FISCAL SUMMARY**

This bill would not create new state costs. However, this bill may expose the CSU and UC to potential litigation costs in the hundreds of thousands of dollars to the extent that implementing this bill generates legal challenges.

### **COMMENTS**

The Department of Finance is neutral on this bill, but notes the following concerns:

- The practical implementation of this bill would likely require student government organizations to change the common practice of employing student government participants to subsidizing them through other means such as cost reimbursement or stipends. Since federal law prohibits employment of undocumented persons, student associations would need to alter their practices to be consistent with federal law. To the extent that student organizations employ undocumented persons, the bill could expose the CSU and the UC to legal risks if challenged.
- Although the bill provides immunity protection from monetary damages, the bill would not alleviate the potential for litigation or legal costs that could arise from implementing this bill. Given the fiscal challenges that the CSU and the UC are currently facing, it would not be prudent policy to expose colleges to potentially costly litigation.
- We question the appropriateness of allowing non-California residents, such as legal residents of other states, to serve on CCC governing boards.

Pursuant to AB 540, a student who attends high school in California for at least three years and graduates from a California high school is exempt from paying nonresident tuition at the UC, the CSU, and the CCCs. Students who are eligible for this exemption include undocumented students and those students who are U.S. citizens but cannot establish residency.

Analyst/Principal (0331) E. Hanson	Date	Program Budget Manager Nick Schweizer	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

<b>BILL ANALYSIS</b>	Form DF-43 (Rev 03/95 Buff)
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R. Lara

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AB 844

There are no statewide policies or guidelines that govern student government organizations or student associations. Student government organizations at the CSU and the UC are established at the local level. Many of the CSU students have established entities as Associated Students (AS), a nonprofit corporation and an auxiliary organization of their respective campuses. They provide a wide range of programs and services to the students, including student government. Under this structure, student government members are considered employees of the AS, and therefore, are not employees of the state or the college. The CSU has no authority over how independent student organizations compensate student government representatives. However, AS are considered to be within the framework of the CSU and are subject to the laws and policies of the CSU. The CSU could still be held liable for actions taken by the AS and as such, could still be subject to litigation on behalf of the student association.

The UC policy affirms that the AS are official units of the UC and that employees of the AS are employees of the UC. The UC recently was subject to a lawsuit challenging the legality of AB 540; to date, the UC estimates costs and fees are over \$600,000.

CCC student government organizations are part of the college; however, the CCCs do not provide any monetary compensation to student government participants. Therefore, the bill would have no fiscal impact on the CCCs.

According to the author's office, this bill is intended to provide students without lawful immigration status, AB 540 students, the same opportunity to participate in student government and to receive any monetary benefits connected with that service. However, it is unclear how this bill would address the federal prohibition on employment of an undocumented person since many student governments are paid as employees of the AS rather than the CSU or the UC.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
6440/UC	LA	No	-----	See Fiscal Summary -----					0001
6610/CSU	LA	No	-----	See Fiscal Summary -----					0001
6870/Comm College	LA	Yes	-----	No/Minor Fiscal Impact -----					0001